

**RESOLUTION NO. 75288**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT EFFECTS, MITIGATION MEASURES, AND ALTERNATIVES AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE JAPANTOWN SENIOR APARTMENTS PROJECT (FILE NO. PDC08-010), FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED**

WHEREAS, prior to the adoption of this Resolution, the Planning Commission of the City of San Jose has certified that the Final Environmental Impact Report for the Japantown Corporation Yard Redevelopment Project (the "FEIR") was completed in accordance with the requirements of the California Environmental Quality Act of 1970, as amended, and related state and local guidelines (collectively, "CEQA"); and

WHEREAS, the Japantown Corporation Yard Redevelopment Project ("Project") consists of two separate parcels, the 5.23 acre Corporation Yard site (File Nos. GP07-03-04/GPT07-03-04) and the 0.55 acre surface parking lot site (File No. PC08-010), which action constitutes a project under CEQA; and

WHEREAS, the Project component on the Corporation Yard site analyzed and more fully described under the FEIR included up to 600 multiple-dwelling units, up to 30,000 square feet of ground-floor retail space, and 10,000 to 20,000 square feet of community amenity space, and an increase in height from 65 to 175 feet; and

WHEREAS, the City Council on May 20, 2008 adopted Resolution No. 74384 in connection with the approval of File Nos. GP07-03-04/GPT07-03-04 concerning the significant effects, mitigation measures, and alternatives and adopting a statement of overriding considerations for the 5.23 acre Japantown Corporation Yard project site, and Resolution No. 74384 is hereby incorporated by reference, and

WHEREAS, the Project analyzed and more fully described under the FEIR also consisted of up to 85 units of affordable senior housing on the 0.55 -acre Affordable Senior Housing site; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed Project to rezone the 0.55 -acre Affordable Senior Housing site to the A(PD) Planned Development Zoning District to allow up to 75 affordable senior housing units; and

WHEREAS, CEQA requires that in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects, the decision - making body of a lead or responsible

agency must make certain findings regarding those significant effects on the environment identified in the environmental impact report.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:**

THAT THE CITY COUNCIL hereby finds that it has independently reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein including the written and oral comments received at the public hearings on the FEIR and on the Project, prior to acting upon or approving the Project, and has found that the FEIR represents the independent judgment and analysis of the City of San José as Lead Agency for the Project, and designates the Director of Planning, Building and Code Enforcement at his office at 200 East Santa Clara Street, San José, California 95113-1905, as the custodian of documents and records of proceedings on which this decision is based; and

THAT THE CITY COUNCIL does hereby make the following findings with respect to the significant effects on the environment of the Project as it is described more fully in the FEIR:

**I. FINDINGS CONCERNING SIGNIFICANT ENVIRONMENTAL EFFECTS**

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**A. TRANSPORTATION, CIRCULATION AND PARKING**

1. **Impacts TRANS-1:** When measured against the City of San Jose level of service impact criteria, three protected study intersections out of the five would be significantly impacted by the combined development of the 5.23-acre Japantown Corporation Yard site and the 0.55-acre Japantown Affordable Senior Housing site: North 1st Street and Taylor Street (PM peak hour), North 10th Street and Hedding Street (AM peak hour), and 10th Street and Taylor Street (PM peak hour).

**Mitigation TRANS-1:** Feasible mitigation measures are not available to reduce this impact to a less than significant level.

**Finding:** Specific economic, legal, social, technological, or other considerations make the mitigation of this impact infeasible. This impact therefore remains significant and unavoidable. The Statement of Overriding Considerations in Part V states the reasons to support the City's action notwithstanding the significant, unavoidable impacts of the action.

**Facts in Support of Finding:** There are no feasible mitigation measures available to reduce the impact to the following Protected Intersections: North 1st Street and Taylor, North 10th Street and Hedding Street, and

10th Street and Taylor. Protected Intersections consist of locations that have been built to their planned maximum capacity and where expansion of the intersection would have an adverse effect upon other transportation facilities (such as pedestrian, bicycle and transit systems). If a development project has significant traffic impacts at a designated Protected Intersection, the project may be approved if offsetting Transportation System Improvements are provided. These improvements are not considered "mitigation" as defined by CEQA. Instead, they are overriding considerations for a significant unavoidable traffic impact. The offsetting improvements are intended to provide other transportation benefits for the community adjacent to the traffic impact. The improvements may include enhancements to pedestrian, bicycle, and transit facilities, as well as neighborhood traffic calming measures and roadway improvements. **[Significant Unavoidable Impact]**

## B. AIR QUALITY

1. **Impact AIR-1:** Demolition and construction period activities could generate significant dust, exhaust, and organic emissions.

**Mitigation AIR-1:** Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and specifications for the Affordable Senior Housing site.

- *Demolition.* The following controls shall be implemented during demolition:
  - Water during demolition work, including the break-up of pavement and infrastructure, to control dust generation;
  - Cover all trucks hauling demolition debris from the site; and
  - Use dust-proof chutes to load debris into trucks whenever feasible.
- *Construction.* The following controls shall be implemented at all construction sites:
  - Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers to control dust;
  - Cover all trucks hauling soil, sand, and other loose materials;

- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible;
- Install baserock at entryways for all exiting trucks, and wash off the tires or tracks of all trucks and equipment in designated areas before leaving the site; and
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding:** The proposed project would require excavation/removal of substantial amounts of soil from the site and other site preparation work. The breaking up of pavement, removal of trees, excavation of soil and existing infrastructure are activities with a high potential to generate air pollutants. In addition to the dust generated during excavation, substantial dust emissions could result from the loading of debris and soil into trucks for disposal. After removal of existing structures, construction dust would also continue to affect local air quality during construction of the project. Construction activities would generate exhaust emissions from vehicles/equipment and fugitive particulate matter emissions that would affect local air quality. Implementation of the actions described above and consistent with guidance from the BAAQMD would reduce these construction period air quality impacts to less-than-significant levels. **[Less than Significant Impact with Mitigation]**

2. **Impact AIR-2:** Future development of the project, consisting of the combined 5.23-acre Japantown Corporation Yard site and the 0.55-acre Japantown Affordable Senior Housing site, would result in long-term project-related regional emissions that would exceed the BAAQMD thresholds of significance for the ozone precursor Reactive Organic Gases (ROG).

**Mitigation AIR-2:** The *BAAQMD CEQA Guidelines* document identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project:

- Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters).
- Provide bicycle lanes and/or paths, connected to community-wide network.
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
- Provide secure and conveniently located bicycle and storage.
- Implement feasible transportation demand management (TDM) measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.

**Finding:** Specific economic, legal, social, technological, or other considerations make the mitigation of this impact infeasible. This impact therefore remains significant and unavoidable. The Statement of Overriding Considerations in Part V states the reasons to support the City's action notwithstanding the significant, unavoidable impacts of the action.

**Facts in Support of Finding:** The proposed project includes trip reduction strategies, including mixed land use and the availability of transit which both reduce regional air quality emissions. These emission reductions were included in the long-term project-related regional emission estimates. However, there is no mitigation available with currently feasible technology to reduce the project's regional air quality impact to a less-than-significant level. Therefore, the project's regional air quality impacts would remain significant and unavoidable. **[Significant Unavoidable Impact]**

## C. NOISE

1. **Impact NOI-1:** Noise levels from construction activities may range up to 91 dBA  $L_{max}$  at the nearest sensitive land uses to the project site.

**Mitigation:** The following measures for reducing potential construction period noise impacts shall be implemented by the project:

- **Mitigation NOI-1a:** All construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.
- **Mitigation NOI-1b:** The project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site as much as is reasonably feasible.
- **Mitigation NOI-1c:** The construction contractor shall locate equipment staging in areas that would create the greatest distance feasible between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
- **Mitigation NOI-1d:** Except as otherwise permitted, construction activities shall be restricted to between 7:00 a.m. and 7:00 p.m. Monday through Friday. No construction shall be permitted on Sundays or federal holidays.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts in Support of Finding:** Noise generated during excavation, grading, site preparation, and building erection on the project site would result in potential noise impacts on off-site uses. Existing receptors in the vicinity, such as the residences and churches on North 6th Street and Jackson Street, would be subject to short-term noise generated by construction equipment and activities on the project site when construction occurs near the project boundary. The use of mufflers and time restrictions on construction activities would reduce these impacts. In addition, locating construction equipment away from noise-sensitive receptors would also reduce these impacts by effectively shielding them from excessive noise. Implementation of the mitigation measures described above would sufficiently mitigate construction-related noise impacts to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

2. **Impact:** Groundborne noise and vibration levels from future construction activities may range up to 96 VdB  $L_{max}$  at the nearest sensitive land uses to the project site.

**Mitigation NOI-2b:** If utility construction would occur within the right of way of North 6th Street and within less than 50 feet of nearby sensitive structures on North 6th Street as a result of buildout of the Affordable

Senior Housing site, the site's project applicant shall prepare a vibration impact assessment to determine potential construction-related groundborne vibration impacts. If mitigation measures cannot be identified that would reduce groundborne vibration impacts to below the groundborne vibration damage criteria of 96 VdB for fragile structures then the measures outlined in the Cultural resources section Mitigation Measure CULT-4a and -4b identified in the FEIR shall be incorporated into construction plans for the project.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Typical groundborne vibration levels measured at a distance of 50 feet from heavy construction equipment in full operation, such as bulldozers or other heavy tracked equipment, range up to approximately 94 VdB. This is below the damage threshold for historic or fragile buildings. However, buildout of the Affordable Senior Housing site could require utility construction to occur within the right of way of North 6th Street and, thus, possibly less than 50 feet from nearby sensitive structures. Therefore, a detailed vibration impact assessment would be required to reduce these potential groundborne vibration impacts on sensitive receptors in the project vicinity. However, at the present stage of the project development, the necessary level of construction detail is not yet available to conduct such an analysis. Implementation of the multi-part mitigation measure describe above would sufficiently mitigate construction-related groundborne noise and vibration impacts to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

3. **Impact NOI-3:** The existing ambient noise environment would exceed the City of San Jose's land use compatibility guidelines.

**Mitigation:** To meet City of San Jose land use compatibility guidelines and interior noise level standards, the Affordable Senior Housing project shall comply with the following mitigation measures:

- **Mitigation Measure NOI-3a:** All noise sensitive development on the Affordable Senior Housing site that is located within 310 feet of Taylor Street or within 50 feet of 7th Street shall include an alternate form of ventilation, such as an air conditioning system, in order to ensure that windows can remain closed for a prolonged period of time.
- **Mitigation Measure NOI-3b:** All on-site outdoor activity areas shall be located so that they are completely sheltered by buildings from direct exposure to Taylor Street.

- **Mitigation Measure NOI-3c:** All residential bedroom units with direct exposure to and within 320 feet of the railroad tracks shall include upgraded facade assemblies with an overall minimum sound transmission class rating of STC-36 including windows with a minimum rating of STC-38 in order to reduce nighttime train passby single event noise levels to below 50 dBA L<sub>max</sub>.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Vehicular railroad noise is the primary noise source in the project vicinity. The measured ambient noise from these noise sources on the project site is 62 dBA L<sub>dn</sub>; which is above the City's normally acceptable standard for new residential developments of 60 dBA L<sub>dn</sub>. Therefore, mitigation would be required to reduce this impact to a less-than-significant level. The use of alternate forms of ventilation to ensure that windows may remain closed will reduce these impacts. In addition, locating outdoor activity areas away from direct exposure to Taylor Street and using facade assemblies with the appropriate sound transmission class will further reduce these noise impacts. Implementation of the mitigation measures described above would sufficiently mitigate railroad and traffic-related noise impacts to less-than-significant levels. **[Less than Significant Impact with Mitigation]**

#### D. GEOLOGY, SOILS AND SEISMICITY

1. **Impact GEO-1:** Seismically-induced ground shaking at the project could result in damage to life and/or property.

**Mitigation GEO-1:** Prior to the issuance of individual site-specific grading or building permits for the Affordable Senior Housing site, a design-level geotechnical investigation shall be prepared by a licensed professional, commissioned by the project applicant, and submitted to the City of San Jose Department of Public Works for review and confirmation that the proposed development fully complies with the California Building Code (Seismic Zone 4). The reports shall describe each project site's geotechnical conditions and address potential seismic hazards, such as liquefaction. The reports shall identify building techniques appropriate to minimize seismic damage. In addition, analysis presented in the geotechnical reports shall conform to the California Division of Mines and Geology recommendations presented in the *Guidelines for Evaluating Seismic Hazards in California*. All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils reports shall be followed.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** It is acknowledged that seismic hazards cannot be completely eliminated even with site-specific geotechnical investigation and advanced building practices. However, exposure to seismic hazards is a generally accepted part of living in the San Francisco Bay Area. A geotechnical and soils report will address potential seismic hazards, including seismically-induced ground shaking, and implementation of the building techniques presented in that report will minimize these impacts. The mitigation measure described above reduces the potential hazards associated with seismic activity to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

2. **Impact GEO-2:** Structures or property at the project could be adversely affected by expansive soils or by settlement of project soils.

**Mitigation GEO-2:** The Affordable Senior Housing site is underlain by expansive soils and/or non-engineered fill and the designers of building foundations and other improvements (including the sidewalks, roads, and underground utilities) shall consider these conditions. The design-level geotechnical investigations required under Mitigation Measure GEO-1 identified in the FEIR shall include measures to ensure potential damages related to expansive soils and non-uniformly compacted fill are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements. All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils reports shall be followed to reduce impacts associated with shrink-swell soils to a less-than-significant level.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Soils underlying portions of the entire project site have moderate to high shrink/swell potential. This condition could significantly damage structures and utilities. In addition, non-uniformly compacted imported fill placed previously at the site that could experience settlements under new structural loads. Structural damage, warping, and cracking of roads and other infrastructure, and rupture of

utility lines may occur if the potential expansive soils and the nature of the imported fill were not considered during design and construction of improvements. Implementation of the techniques set forth in the geotechnical and soils report described as part of Mitigation GEO-1 will minimize these impacts. The implementation of the mitigation identified above will reduce this impact to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

3. **Impact GEO-3:** Differential settlement at the project site could result in damage to project buildings and other improvements.

**Mitigation GEO-3:** Prior to the issuance of individual grading permits, a site-specific grading plan and geotechnical report shall be prepared by licensed professionals and submitted to the City of San Jose Department of Public Works for review and approval. The plans shall include specific recommendations for mitigating potential settlement associated with fill placement and areas of different fill thickness. All mitigation measures set forth in the geotechnical report and/or grading plan shall be followed.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Grading of the project site in preparation for construction of buildings and utilities may result in areas of cut and fill. In addition, the demolition of foundations and excavation and removal of subsurface components such as former hydraulic automotive lifts and tanks, may result in areas containing fills of irregular depths. Fills of different thickness and fills adjacent to cut areas where native soils are exposed at the surface could create the potential for differential settlement. If the settlement is not uniform, structural damage could occur. Buried utilities may also experience differential settlement along their alignments. Uncompacted and loose fill and existing un-engineered and historic fill will be subject to varying rates of compaction and settlement compared to the native undisturbed soil. Structures built over discontinuous materials of varying densities and compactness may be subject to stress or damage due to differential settlement. The site-specific grading plan and geotechnical report described above will set forth recommendations to minimize these impacts. Implementation of the mitigation measure identified above will reduce these impacts to less-than-significant levels. **[Less than Significant Impact with Mitigation]**

4. **Impact GEO-4:** Liquefaction at the project site could result in damage to buildings and other improvements.

**Mitigation GEO-4:** Project design for the Affordable Senior Housing site shall be in accordance with the recommendations contained in site-specific geotechnical reports, as required under Mitigation Measure GEO-1 identified in the FEIR, prepared by a licensed professional and reviewed and approved by the San Jose Department of Public Works. The City of San Jose Department of Public Works shall approve all final design and engineering plans. Project design and construction shall be in conformance with current best standards for earthquake resistant construction in accordance with the California Building Code (Seismic Zone 4), applicable local codes and in accordance with the generally accepted standard of geotechnical practice for seismic design in Northern California. The City shall submit one copy of the approved geotechnical reports, including mitigation measures, if any, that are to be taken, to the State Geologist within 30 days of approval of the reports. The design-level geotechnical investigations shall include measures to reduce potential damage related to liquefaction to a less-than-significant level.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** The site is located within a California Department of Conservation Seismic Hazard Zone as defined by the Seismic Hazards Mapping Act. Specifically, the project site falls within a liquefaction hazard zone. Regional mapping by ABAG also indicates moderate to high susceptibility to liquefaction within the project site. Adverse effects of liquefaction can take many forms including land failures, lateral spreading, ground oscillation, loss of soil bearing strength, settlement, and increased lateral pressure on retaining walls. When the soil supporting a building or other structure liquefies and loses strength, large deformations can occur within the soil that may allow the structure to settle and tip and smaller settlements may occur as soil pore-water pressures dissipate and the soil consolidates after the earthquake. The site-specific grading plan and geotechnical report described above will set forth recommendations to minimize these impacts. The implementation of the mitigation measure identified above will reduce these impacts to less-than-significant levels. **[Less than Significant Impact with Mitigation]**

## **E. HYDROLOGY AND WATER QUALITY**

- 1. Impact HYD-1:** Alteration of local drainage patterns could potentially result in exceedance of the capacity of downstream stormwater conveyance structures, resulting in localized flooding.

**Mitigation HYD-1:** As a condition of approval of the Planned Development Permit plans of the Affordable Senior Housing site, the applicant shall demonstrate through the preparation of a detailed hydraulic analysis, that implementation of proposed drainage plans for the applicable development site would not increase total off-site peak flow rates, or exceed the capacities of local system components. The project must use drainage components and methods that are designed in compliance with City of San Jose standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the City of San Jose Department of Public Works. Any improvements deemed necessary by the City will be part of the conditions of approval.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Under existing conditions, the project site is urbanized and almost entirely covered with impervious surfaces. The proposed project would be required to meet the current NPDES permitting requirements, which include the use of BMPs. Generally, these BMPs result in a reduction of both peak and total runoff from a site. Compliance with and implementation of approved drainage and grading plans that include such measures will reduce impacts associated with alteration of local drainage patterns. Implementation of the mitigation measure identified above will reduce this impact to a less-than-significant level.  
**[Less than Significant Impact with Mitigation]**

2. **Impact HYD-2:** Construction activities and post-construction site uses could result in degradation of water quality in the receiving waters by reducing the quality of stormwater runoff.

*Construction-Period Impacts and Grading:*

**Mitigation HYD-2a:** The applicant shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of the project. The SWPPP must be maintained on-site and made available to City inspectors and/or Water Board staff upon request. The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.

An important component of the stormwater quality protection effort is the knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of stormwater quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP. The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, which must include both dry and wet weather inspections. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are "not visually detectable in runoff."

BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control; that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1 and irrigated as necessary to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.

Review and approval by the City of San Jose Department of Public Works is required of the SWPPP and drainage plans prior to approval of the planning development permit or grading plan. The Director of Public Works and City inspectors from Building, Public Works or Environmental Services Departments may require more stringent stormwater treatment measures than required by the SWPPP, at their discretion.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Construction within the project site would require temporary disturbance of surface soils. During the construction period, grading and excavation activities would result in exposure of soil to runoff, potentially causing erosion and entrainment of sediment (and potentially contaminants associated with releases that may have occurred at Industrial sites) in the runoff. Soil stockpiles and excavated areas on the project site would be exposed to runoff and, if not managed properly, the runoff could cause erosion and increased sedimentation and pollutants in stormwater. The BMPs required by the mitigation measure above would ensure these conditions are properly managed. Thus, implementation of the two-part mitigation identified above would reduce this impact to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

*Operation-Period Impacts:*

**Mitigation HYD-2b:** The project applicant for the Affordable Senior Housing site shall comply with the City of San Jose's Post-Construction Urban Runoff Management Policy (Policy Number 6-29), which requires:

All new and redevelopment projects to implement Post-Construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs) to the maximum extent practicable. This Policy also establishes specified design standards for Post-Construction TCMs for Major Projects and minimum Post-Construction BMPs for all Land Uses of Concern, including Expansion Projects. This Policy further establishes the criteria for determining the situations in which it is impracticable to comply with the Major Project design standards, including the criteria for evaluating the equivalency of Alternative Compliance Measure(s).

The applicant for the Affordable Senior Housing site shall have a stormwater control plan prepared by a qualified professional, prior to approval of the planning development permit. In accordance and compliance with City of San Jose Policy 6-29, the stormwater control plan for the site shall include, and show, calculations in compliance with the numerical sizing criteria listed in Chapter 4 of the C.3 Stormwater manual, as issued by the SCVURPPP. As part of the determination as to suitability of the site, location-specific soil testing is required if landscape treatment is part of the treatment strategy to be employed at the site.

The stormwater control plans shall demonstrate through detailed hydraulic analysis that implementation of the proposed drainage plans would result in treatment of the appropriate percentage of the runoff from the site (in compliance with the County NPDES permit). The permit provides for more than one methodology for calculating numeric sizing criteria; however, the amount of runoff that is typically required to be treated is about 85 percent of the total average annual runoff from the site. The qualified professionals preparing the design-level stormwater control plans shall consider additional measures designed to mitigate potential water quality degradation of runoff from all portions of the completed developments. In general, passive, low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred by the agency. The City shall ensure that the Affordable Senior Housing site project design include features and operational BMPs to reduce potential impacts to surface water quality associated with operation of the projects to the maximum extent practicable. These features shall be included in the stormwater control plans and final development drawings.

The design team for the Affordable Senior Housing site shall review and incorporate as many concepts as practicable from *Start at the Source, Design Guidance Manual for Stormwater Quality Protection* and the California Stormwater Quality Association's *Stormwater Best Management Practice Handbook, New Development and Redevelopment*. Any use of end-of-pipe treatment systems must be accompanied by a viable maintenance program. Specifically, drainage from the project sites should be treated prior to discharge to city storm drains.

The enclosed parking areas shall not be drained to the stormwater conveyance system. The garages should be dry-swept or, if washdown water is used the effluent should be discharged to the sanitary sewer system under permit from the San Jose/Santa Clara Water Pollution Control Plant.

The City of San Jose Department of Public Works shall review and approve the stormwater control plans and drainage plans prior to approval of the planning development permit. The Director of Public Works and City inspectors from Building, Public Works or Environmental Services Departments may require more stringent stormwater treatment measures than required by the SWPPP, at their discretion.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** New construction and intensified land uses at the project site would result in increased vehicle use and potential discharge of associated pollutants. Increased numbers of vehicles and parking facilities at the project site would likely result in increased leaks of fuel, lubricants, tire wear, and fallout from exhaust, which would contribute petroleum hydrocarbons, heavy metals, and sediment to the pollutant load in runoff being transported to receiving waters. Runoff from the landscaped areas at the proposed project may contain residual pesticides and nutrients. Long-term degradation of runoff water quality from the site could impact local water quality in the Guadalupe River, impaired for diazinon and mercury, or the receiving waters of South San Francisco Bay, impaired for several pesticides (chlordane, DDT, diazinon, and dieldrin), dioxin compounds, exotic species, furan compounds, mercury, PCBs, and selenium. Compliance with the City's Post-Construction Urban Runoff Management Policy and the implementation of stormwater control plans and drainage plans will minimize these impacts. Thus, implementation of the two-part mitigation identified above would reduce this impact to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

3. **Impact HYD-3:** Dewatering discharges may contain contaminants and if not properly managed could cause impacts to construction workers and the environment.

**Mitigation HYD-3:** As required under Mitigation Measure HYD-2a identified in the FEIR, the project applicant for the Affordable Senior Housing site shall have a SWPPP prepared for its site. The SWPPP shall include provisions for the proper management of construction-period dewatering activities. At minimum, all dewatering shall be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only sediment-free water is discharged to the storm or sanitary sewer system, as appropriate. The General Permit makes allowance for circumstances where limited amounts of uncontaminated dewatering effluent, from foundation excavations for example, may be released after sediment has settled out and the effluent has been filtered, in compliance with the terms of the SWPPP. The applicant is responsible for ensuring that any necessary field or laboratory test are performed if contamination is suspected, and appropriate steps taken.

In areas of suspected groundwater contamination (i.e., near sites where chemical releases are known or suspected to have occurred), the groundwater shall be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the project applicant shall acquire the appropriate permit(s) prior to discharge of the dewatering effluent. Discharge of the dewatering effluent would require a permit from the Water Board (for discharge to the storm sewer system) and/or the San Jose/Santa Clara Water Pollution Control Plant (for discharge to the sanitary sewer system).

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Groundwater at the project site could be encountered at about ten feet below the ground surface (and on a seasonal basis may be present at shallower depths) and may therefore be encountered during excavation for building foundations, utilities, and other improvements. The project site has a history of industrial activity (refer to the Hazards section of the FEIR for discussion of identified areas of potential subsurface contamination and impacts and mitigations required before site development). Direct discharge of dewatered groundwater to the storm drainage system could result in water quality impacts to the receiving waters. Preparation and implementation of the SWPPP identified above would minimize these impacts because the SWPPP for the project site will address the proper management of construction-period dewatering activities. Thus, implementation of the mitigation measure identified above would reduce this impact to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

## F. HAZARDS AND HAZARDOUS MATERIALS

1. **Impact HAZ-1:** Future redevelopment of the Affordable Senior Housing site could expose remediation or construction workers and/or the public to hazardous materials from contaminants in soil and groundwater, during and following site redevelopment activities.

**Mitigation:** Implementation of the following measures would reduce this impact.

- **Mitigation HAZ-1b:** Prior to approval for any grading or construction permits at the Affordable Senior Housing site, the contractor(s) shall prepare procedures to be undertaken in the event that previously

unreported contamination or subsurface hazards are discovered during redevelopment activities (e.g., identified by odor or visual staining), including a contingency plan for sampling of unknown materials, and shall designate personnel responsible for implementation of these procedures. The procedures shall be submitted by the contractor(s) with the application for a grading permit(s) from the City of San Jose Department of Public Works.

- **Mitigation HAZ- 1c:** Prior to development activities at the parking lot site, a minimum of four surface soil samples shall be collected below the existing site paving by a qualified environmental professional (e.g., Professional Geologist, Professional Engineer) and analyzed for lead and other metals (EPA Method 6000/7000 series), Total Petroleum Hydrocarbons as gasoline, diesel, and motor oil (EPA Method 3630/8015M), fuel-related volatile organics and oxygenates (EPA Method 8260), and polynuclear aromatic hydrocarbons (EPA Method 8270) by a California-certified laboratory. The results of the samples shall be compared to Water Board Environmental Screening Levels (ESLs) for future residential and commercial receptors and construction workers. Documentation of the sampling and comparisons of site data to ESLs shall be provided to the City/RDA and SCCEHD prior to issuance of a Planned Development Permit. If site soils contain contaminants above the ESLs for residential, commercial, and/or construction workers, any required additional site characterization, site remediation, or other required activities shall be completed by the responsible party under the direction of a regulatory oversight agency prior to site development.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** As described in the mitigation measures above, the preparation of procedures in the event that previously unreported contamination or subsurface hazards are discovered will minimize the potential for exposure from such contaminants or hazards during redevelopment activities. Thus, implementation of the mitigation measures identified above would reduce these impacts to less-than-significant levels. **[Less than Significant Impact with Mitigation]**

2. **Impact HAZ-2:** Improper use or transport of hazardous materials during construction activities could result in releases affecting construction workers and the general public.

**Mitigation:** Implementation of the following measures would reduce these impacts.

- **Mitigation HAZ-2a:** The contractor(s) shall designate storage areas at the Affordable Senior Housing site that are suitable for material delivery, storage, and waste collection. These locations must be as far away from catch basins, gutters, drainage courses, and water bodies as possible. All hazardous materials and wastes used or generated during project site redevelopment activities shall be labeled and stored in accordance with applicable local, state, and federal regulations, and General Plan policies for Hazardous Materials and Fire Hazards. In addition, an accurate up-to-date inventory, including Material Safety Data Sheets, shall be maintained on-site to assist emergency response personnel in the event of a hazardous materials incident. All maintenance and fueling of vehicles and equipment at the Affordable Senior Housing site shall be performed in a designated, bermed area, or over a drip pan that will not allow run-off of spills. Vehicles and equipment shall be regularly checked and have leaks repaired promptly at an off-site location. Secondary containment shall be used to catch leaks or spills any time that vehicle or equipment fluids are dispensed, changed, or poured.
- **Mitigation HAZ-2b:** The contractor(s) redeveloping the Affordable Senior Housing site shall prepare emergency procedures including notification procedures in the event of spills or other on-site hazardous materials releases, evacuation procedures, spill containment procedures, and required personal protective equipment, as appropriate, in responding to the emergency. Use, storage, disposal, and transport of hazardous materials during construction activities at both sites shall be performed in accordance with existing local, state, and federal hazardous materials regulations. These emergency procedures shall be prepared by the contractor(s) and submitted to the City/RDA prior to earthworking activities.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Findings:** Construction activities proposed by the project at the Affordable Senior Housing site would require the use and transport of hazardous materials (e.g., fuels, lubricants, paints, adhesives). In addition, construction vehicles would be used on-site that could accidentally release hazardous materials, such as oils, grease, or fuels. It is likely that the contractor(s) would store these hazardous materials and vehicles during the duration of construction activities. Accidental releases of hazardous materials could impact soil and/or

groundwater quality, or could result in adverse health effects to construction workers, the public, and the environment. Proper labeling, storage, and maintenance of hazardous materials and wastes will minimize releases, and the preparation of emergency procedures in accordance with hazardous materials regulations will minimize the extent to which any releases will affect construction workers or the general public. Implementation of the mitigation measures identified above would reduce these impacts to less-than-significant levels. **[Less than Significant Impact with Mitigation]**

## G. CULTURAL AND PALEONTOLOGICAL RESOURCES

1. **Impact CULT-1:** Future redevelopment of the Affordable Senior Housing site may include construction-related excavation that could result in significant impacts to human remains.

**Mitigation CULT-1:** If human remains are discovered during archaeological investigations or construction on the Affordable Senior Housing site, any such remains shall be treated in accordance with the requirements of CCR Title 14(3) §15064.5(e), which has particular procedures that apply to the discovery of remains of Native American origin. These procedures are provided below.

- (1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
  - (A) The coroner of the County must be contacted to determine that no investigation of the cause of death is required, and
  - (B) If the coroner determines the remains to be Native American:
    1. The coroner shall contact the Native American Heritage Commission within 24 hours.
    2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
    3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of

treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC §5097.98, or

- (2) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.
  - (A) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission;
  - (B) The descendent identified fails to make a recommendation; or
  - (C) The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Compliance with the requirements of CCR Title 14(3) §15064.5(e) shall be coordinated with the Native American community contacts already established for this project. If, following the fulfillment of the notification requirements described above, human remains are discovered that are determined to not be of Native American origin, then the City shall consult with the appropriate descendent community regarding means for treating or disposing of the human remains, and any associated items, with appropriate dignity.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Native American remains have been found throughout San Jose, both individually and in formal cemeteries. Although there is no evidence that human remains are present in the project area, archaeological research elsewhere in the Santa Clara Valley indicates that the possibility of discovering isolated burials cannot be discounted. In addition, geoarchaeological fieldwork indicates a moderate-to-high sensitivity for prehistoric archaeological deposits at a depth of 13 to 16 feet below the project area's surface, where a former potential occupation surface is buried. Human burials may be associated with these possible archaeological deposits. It is also possible that undocumented burials from

the historic era may be present in the project area. If human remains are present, they may be disturbed by site clearance, excavation, and construction. Disturbance of human remains would constitute a significant impact. Implementing the above mitigation measure would reduce potential impacts to human remains to a less-than-significant level. This reduction would be achieved by ensuring that any remains are treated appropriately according to State of California guidelines, as well as in a manner that takes into account the proper treatment of human remains in accordance with the wishes of the descendant community. **[Less than Significant Impact with Mitigation]**

2. **Impact CULT-2:** Redevelopment of the Affordable Senior Housing site may include construction-related excavation (including site remediation) that may result in impacts to significant archaeological resources.

**Mitigation:** To reduce the severity of this impact, the following three-part mitigation measure shall be implemented. The necessity of each subsequent mitigation measure shall be determined by the results of preceding measures.

- **Mitigation CULT-2a:** Research conducted by the Anthropological Studies Center has established that it is likely that the project area may contain significant archaeological resources associated with historic-era Japanese and Chinese settlement. To identify these resources in the field, an appropriate Testing Strategy is necessary to specify the appropriate investigative methods and approaches. If resources are identified, they will require evaluation to determine if they qualify as significant archaeological resources. The evaluation shall be conducted through the application of the principles contained in the Archaeological Research Design (described below).

To achieve the steps outlined above, the Director of Planning (or their designated representative) shall require that an Archaeological Research Design, Testing, and Evaluation Plan (ARDTEP), currently in preparation, be implemented prior to project construction. The ARDTEP will guide fieldwork and help to determine if identified archaeological remains constitute significant archaeological resources. The ARDTEP is being prepared by professionals who meet the Secretary of the Interior's Professional Qualifications Standards in historical archaeology, prehistoric archaeology, and history (36 CFR Part 61, Appendix A).

The *research design* component of the document will contain the following major sections:

- Introduction and Purpose
- Project Location and Description
- Regulatory Context
- Methods and Sources
- Holocene Landscape Evolution
- Prehistory and Ethnography
- History
- Previous Archaeological Research
  - Prehistoric Archaeology
  - Historical Archaeology
- Archaeological Research Design
- Geoarchaeology
- Archival and Oral History Research
  - Block Histories by Address
- Research Context: Prehistoric Archaeology
  - Research Themes and Issues
  - Data Requirements
  - Property Types: Prehistoric Archaeology
  - Archaeological Sensitivity: Prehistoric
- Research Context: Historical Archaeology
  - Research Themes and Issues
  - Data Requirements
  - Property Types: Historical Archaeology
  - Archaeological Sensitivity: Historical Archaeology.

The *testing strategy* component of the document will contain the following major sections:

- Introduction and Purpose
- Test Areas and their Potential Significance
- Fieldwork Methods
- Hazardous Materials, Health, and Safety
- Treatment of Human Remains and Burial Goods
- Public Involvement
- Laboratory Work
  - Laboratory Methods
- Archaeological Evaluation Plan: Evaluation Procedures and Criteria
  - Integrity
- Infield Evaluation
- Post-field Evaluation
- Reporting and Dissemination of Results
  - Public Outreach
- Curation

The ARDTEP shall be subject to review and approval by the Director of Planning (or their designated representative) in consultation with the City of San Jose Historic Preservation Officer. On approval, the Planning Director (or their designated representative) shall require that the terms of the ARDTEP be carried out by professionals who meet the Secretary of the Interior's Professional Qualifications Standards in historical archaeology, prehistoric archaeology, and history (36 CFR Part 61, Appendix A). The ARDTEP will be used to inform the City's decision regarding project design, and will be carried out prior to project construction. Artifacts recovered as a result of the implementation of the ARDTEP will be curated at an appropriate curation facility. The appropriate curation facility will meet the standards in the Office of Historic Preservation's Guidelines for the Curation of Archaeological Collections (State Historic Resources Commission 1993), or, at the City's discretion, an alternate facility will be selected to provide for the long-term curation of archaeological materials in a manner that allows for future community interpretation and/or scientific analysis.

Following implementation of the ARDTEP, the project archaeologist shall submit a report (the content of which is specified in the ARDTEP) of his/her findings to the Planning Department. If the project archaeologist, in consultation with the Planning Department, determines that significant archaeological resources are present, and that such resources may be impacted by the project, then the Planning Department shall require the preparation and implementation of an Archaeological Treatment Plan to mitigate project impacts. The Plan may include archaeological data recovery, archaeological monitoring, and/or public interpretation of important remains. The Archaeological Treatment Plan is described below.

- **Mitigation CULT-2b:** Unavoidable project impacts on significant archaeological resources shall be treated according to the requirements of an Archaeological Treatment Plan (ATP). The Director of Planning (or their designated representative) shall review, authorize, and require the implementation of the ATP, which shall be prepared by professionals who meet the Secretary of the Interior's Professional Qualifications Standards in historical archaeology, prehistoric archaeology, and history (36 CFR Part 61, Appendix A), and who will work in consultation with the City and the appropriate descendent communities. The ATP shall specify the treatment of previously identified significant archaeological resources, as well as the treatment of property types that may be uncovered during additional archaeological excavation.

Depending on the nature of the resources and project impacts, the ATP may include requirements for any or all of the following: additional archaeological identification efforts, data recovery (scientific excavation), laboratory analysis, preparation of technical and interpretive reports, *in situ* preservation of remains, archaeological monitoring during construction, and the preparation of feasible public outreach products. Treatment, including archaeological data recovery, shall be limited to significant archaeological resources that may be adversely impacted by the project.

The ATP shall contain the following sections, as appropriate to the resources under consideration:

Introduction and Purpose  
Project Description  
Impact Locations  
Historic Resources  
Data Recovery Plan: Field Methods  
Site Security Measures  
Laboratory Methods  
Artifact Discard and De-accession Policy  
Final Reporting and Dissemination of Results  
Curation  
Public Interpretation Plan  
Archaeological Monitoring Plan.

After the City has approved the project design and the ATP has been implemented, the City, in consultation with the project archaeologist, may determine that it is necessary to prepare an Archaeological Monitoring Plan. This decision will be based on information about field conditions collected during the Archaeological Monitoring Plan's implementation, and will specifically address the likelihood that undiscovered, significant archaeological resources may be present in the project area and may be impacted by project activities. The decision shall be made by the Director of Planning (or their designated representative).

- **Mitigation CULT-2c:** The purpose of the Archaeological Monitoring Plan (AMP) will be to ensure that significant archaeological resources discovered during construction are identified, evaluated, and appropriately treated. The City will review, authorize, and require the implementation of the AMP. The AMP shall be reviewed, authorized, and its implementation required by the Director of Planning (or their designated representative). The AMP shall include the following requirements:

- Construction monitoring shall be undertaken by an individual who meets the Secretary of the Interior's Professional Qualifications Standards in historical archaeology and/or prehistoric archaeology (36 CFR Part 61, Appendix A), as appropriate in relation to the anticipated resources. A Native American cultural monitor shall be present if previous archaeological excavations indicate that Native American archaeological deposits may be discovered. The cultural monitor's function shall be to advise the project archaeologist and the City regarding the respectful treatment of any prehistoric archaeological remains that are uncovered.
- The City, in consultation with the project archaeologist, shall determine which project activities and/or which portions of the project area will be archaeologically monitored. This information will be included in the AMP. In most cases, all soil-disturbing activities in sensitive portions of the project area—such as demolition, foundation removal, excavation, grading, utilities installation, and foundation work—will require archaeological monitoring. The project archaeologist shall have the authority to redirect construction personnel and equipment while discoveries are being assessed. The monitoring and project archaeologists would make every effort to ensure that evaluation and treatment of remains is carried out with as little disruption as possible. If it is necessary to suspend construction for more than one working day, the project archaeologist shall consult with the City to assess the appropriate course of action.

During construction monitoring, if the project archaeologist and the City determine that the finds in question represent significant archaeological resources, and that these resources may be adversely impacted by the project, then the City shall require the implementation of the appropriate portions of the Archaeological Treatment Plan to mitigate project effects on significant resources. These efforts may include archaeological data recovery and public interpretation of important remains.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Historical research and geoarchaeological fieldwork indicate that the site is extremely sensitive for archaeological remains that may constitute historical resources or unique archaeological resources under CEQA. Construction and site remediation activities may effect a substantial adverse change in the significance of such resources

by altering the characteristics that make them significant archaeological resources, thereby resulting in a significant impact. Implementing the measures identified above, as warranted, would reduce the project's impacts to significant archaeological resources to a less-than-significant level. This reduction would be achieved by preserving the values for which the resources are important through a systematic program of identification, evaluation, or treatment, as well as reporting for the public benefit. **[Less than Significant Impact with Mitigation]**

3. **Impact CULT-3:** Redevelopment of the Affordable Senior Housing site may result in significant impacts to the integrity of setting and feeling of the NRHP/CRHR-eligible San Jose Japantown Historic District.

**Mitigation:** To reduce the severity of this potential impact, the following two-part mitigation measure shall be implemented to the extent feasible to ensure that the new buildings do not clash with or overwhelm the existing historical buildings.

- **Mitigation CULT-3a:** The proposed project shall have regular commercial ground-floor entries along the following portions of North 6th Street: (1) that portion of the project area directly across from Buildings 8 through 12 (i.e., within the Corporation Yard site); and (2) that portion of the project area adjacent to Building 16 (i.e., the City parking lot site).

While of varying scales and designs, the nine contributing buildings along the west side of North 6th Street, although interrupted by vacant parcels and surface parking lots, create a pedestrian-scaled rhythm of ground floor entries and storefronts. Buildings 13 through 16 will be across North 6th Street from a proposed public open space; Buildings 8 through 12, however, will be across the street from proposed buildings. These proposed buildings, along with the proposed structure immediately adjacent to Building 16, shall maintain and extend the scaled rhythm established by the contributing buildings along North 6th Street. The project should not "wall off" this portion of North 6th Street with an undifferentiated, continuous façade. Nor shall the buildings of this portion of the project be set so far back from the street that North 6th Street fails to feel like a commercial-lined street. Staggered setbacks of up to 5 feet and/or architectural differentiation will be incorporated into the ground floor retail frontage. Building to the property line on North 6th Street from Jackson Street to approximately Building 12 (APN 249-39-012) is desirable.

- **Mitigation CULT-3b:** The proposed project shall employ setbacks and horizontal façade elements to reflect the scale of the

NRHP/CRHR-eligible San Jose Japantown Historic District along the following portions of North 6th Street: (1) that portion of the project area directly across from Buildings 8 through 12 (i.e., the Corporation Yard site); and (2) that portion of the project area adjacent to Building 16 (i.e., the City parking lot site). This mitigation measure shall not be construed to require specific building materials or design elements.

Maximum building heights fronting North 6th Street in proximity to Buildings 8 through 12 and Building 16 shall be mid-rise in order to be compatible with the mid-rise scale of the greater Japantown area and the low-rise scale of the identified NRHP/CRHR-eligible San Jose Japantown Historic District. Proposed buildings on the Corporation Yard site directly across North 6th Street from Buildings 8 through 12, along with the proposed structure immediately adjacent to Building 16 on the City parking lot site, shall incorporate horizontal façade elements to distinguish the first story or two from the stories above. The third through sixth stories on buildings proposed across North 6th Street from Buildings 8 through 12 shall be set back substantially (10 to 15 feet) from second stories. Such elements will prevent the taller proposed buildings from overwhelming the contributing one- and two-story buildings on the west side of North 6th Street.

A two-part review process would be used to ensure that proposed designs meet the objectives of the mitigation measures identified above. First, conceptual elevations and architectural standards for the proposed development shall be subject to City Council approval, following community input at the Planned Development zoning stage. Then, final elevations will be subject to the approval of the Director of Planning, following community input at the Planned Development Permit stage.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Redevelopment of the Affordable Senior Housing site entails construction of buildings that would be of markedly different design than the adjacent nine existing structures on North 6th Street. Implementation of the project may have a significant adverse impact on the integrity of setting and feeling of the nine contributors to the NRHP/CRHR-eligible San Jose Japantown Historic District along North 6th Street. Implementing the mitigation measures identified above would reduce the project's impact to the NRHP/CRHR-eligible San Jose Japantown Historic District's integrity of setting and feeling to a less-than-significant level. This reduction would be achieved by designing new

construction that is sympathetic to the district's existing architectural context and historical qualities, and ensuring the implementation of such designs through public input and a City review and approval process.

**[Less than Significant Impact with Mitigation]**

4. **Impact CULT-4:** Future redevelopment of the Affordable Senior Housing site may result in significant impacts to the integrity of design, materials, and workmanship of the NRHP/CRHR-eligible San Jose Japantown Historic District.

**Mitigation:** Implementation of the following mitigation would reduce impacts to less than significant levels.

- **Mitigation CULT-4a:** Should the implementation of Mitigation Measure NOI-2a and -2b identified in the FEIR demonstrate that construction-related vibration levels may be in excess of the damage threshold, a qualified geologist or other professional with expertise in ground vibration and its effect on existing structures shall determine the likelihood that such vibration would damage any of the contributing buildings of the NRHP/CRHR-eligible San Jose Japantown Historic District (Building 16, in particular). If such damage is likely, the qualified professional shall develop specifications regarding the restriction and monitoring of construction activities that shall be incorporated into the contract. Project modifications recommended by the qualified professional shall be made prior to project construction to reduce vibrations to below damage threshold levels.

Construction-related vibration levels in the vicinity of Buildings 8-16 shall be monitored during initial construction. If construction-related vibration exceeds threshold levels, then, prior to the commencement of construction within 50 feet of any of the NRHP/CRHR-eligible San Jose Japantown Historic District contributing buildings (including development of the parking lot adjacent to Building 16 and subsurface utility construction in North 6th Street), an architect specializing in historic architecture and a registered structural engineer shall undertake an existing condition study of those contributing buildings at risk (in particular, Building 16). The purpose of the study would be to establish the baseline condition of at-risk buildings, prior to construction that may exceed vibration thresholds, by identifying the location and extent of any visible exterior surface cracks, spalls, or structural deficiencies. The documentation shall consist of written descriptions and photographs, and shall specifically address those physical characteristics of the resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the California Register and the local register. The documentation would

be reviewed and approved by the City of San Jose's Historic Preservation Officer.

Following the baseline condition assessment, the architect and structural engineer shall monitor groundborne vibration levels during construction and report any changes to existing condition of the at-risk buildings, including, but not limited to, expansion of existing cracks, new spalls, or other exterior deterioration. Monitoring reports shall be submitted to the City of San Jose's Historic Preservation Officer, who shall also establish the frequency of monitoring and reporting. The structural engineer shall consult with the architect if any problems with character-defining features of a contributing building are discovered. If, in the opinion of the structural engineer in consultation with the architect, substantial adverse changes to the character-defining features of the contributing buildings are found during construction (and can be reasonably attributed to the effects from construction activities), the monitoring team shall immediately inform the project sponsor or sponsor's designated representative responsible for construction activities. The monitoring team shall also provide recommendations for preventive and/or corrective measures, and such measures shall be followed by the project sponsor. The preventive/corrective measures may include (1) halting construction in situations where construction activities would imminently endanger historical buildings; (2) redesigning the project to avoid certain activities that would pose future risks to historical buildings; and (3) repairing any construction-related damage such that the character-defining features of any affected buildings are restored to their pre-project condition. The monitoring teams recommendations shall be reviewed by the City of San Jose's Historic Preservation Officer for feasibility and appropriateness, but preventive measures shall be implemented in a timely manner to avoid additional potential damage.

- **Mitigation CULT-4b:** The monitoring architect (described above) shall establish a training program for construction personnel to emphasize the importance of protecting the historical buildings in the vicinity of the project area. This program shall include information on recognizing historic fabric and materials, and directions on how to exercise care when working around and operating equipment near historical buildings, including the proper storage of materials. The program shall also include information on ways to minimize vibrations from demolition and construction, as well as ways to monitor and report any potential damage to historical buildings from such vibration. A provision for establishing this training program shall be incorporated into the contract, and the contract provisions would be reviewed and approved by the City of San Jose's Historic Preservation Officer.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Buildings 8 through 16 on North 6th Street, adjacent to the City parking lot (Affordable Senior Housing) site, are eligible for the National and California registers as contributors to the NRHP/CRHR-eligible San Jose Japantown Historic District. Activities associated with project construction have the potential to adversely impact integrity of design, materials, and workmanship through project-related vibration damage to character-defining features.

Redevelopment activities on the Affordable Senior Housing site could require utility construction to occur within the right of way of North 6th Street and, thus, possibly less than 50 feet (the approximate distance at which vibration from heavy construction equipment in full operation could damage historic or fragile buildings) from nearby sensitive structures across North 6th Street.

If the vibration impact assessment required under Mitigation Measure NOI-2a and 2b identified in the FEIR determines that vibration levels would be in excess of the damage threshold, implementation of the above mitigation would reduce these potential groundborne vibration impacts on sensitive receptors to less than significant levels. If vibration impact assessments required by Mitigation Measures NOI-2a and 2b determine that vibration impacts to contributory buildings would be in excess of 96 VdB, then implementing Mitigation Measures CULT-4a and -4b identified in the FEIR would reduce the project's impacts to the NRHP/CRHR-eligible San Jose Japantown Historic District's integrity of design, materials, and workmanship to a less-than-significant level. This reduction would be achieved by taking feasible steps to identify, prevent, or repair project-related damage to the contributing buildings of the NRHP/CRHR-eligible San Jose Japantown Historic District. **[Less than Significant Impact with Mitigation]**

5. **Impact CULT-5:** Future redevelopment of the Affordable Senior Housing site may result in inadvertent damage to paleontological resources.

**Mitigation CULT-5:** If paleontological resources are encountered during project subsurface construction on the Affordable Senior Housing site, then all work within 25 feet of the discovery shall be redirected and a qualified paleontologist contacted to evaluate the finds and make recommendations. If the exposed geological formation is found to contain significant paleontological resources, such resources shall be avoided by

project activities, if feasible. If project activities cannot avoid the paleontological resources, the resources shall be evaluated for their significance. If the resources are found to be significant, adverse effects shall be mitigated. Mitigation may include, but is not limited to, monitoring, data recovery and analysis, and accessioning of all fossil material to a paleontological repository. A final report documenting the methods, findings, and recommendations of the consulting paleontologist shall be prepared and submitted to the paleontological repository.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** The project area is underlain by Holocene alluvial deposits. These deposits may be underlain by Pleistocene sediments at a depth as little as 10 feet below the surface. In the summer of 2005, mammoth bones were reported to be exposed in the bank of the Guadalupe River north of the San Jose Municipal Airport approximately 10.5 feet below the elevation of the adjacent flood plain. The presence of mammoth bones in a similar geological context introduces the possibility of Pleistocene-aged sediments occurring at an indeterminate depth in the project area, though possibly as shallow as 10 feet below the surface. Therefore, there is a possibility of encountering and inadvertently damaging paleontological resources during project construction. Implementing the mitigation measure identified above would reduce potential impacts to paleontological resources to a less-than-significant level. This reduction would be achieved by recovering and documenting the scientific value possessed by significant paleontological resources.  
**[Less than Significant Impact with Mitigation]**

## H. BIOLOGICAL RESOURCES

1. **Impact BIO-2:** Future redevelopment of the Affordable Senior Housing site may include construction activities that may disturb nesting Cooper's hawks and other native birds.

**Mitigation BIO-2:** All work on trees proposed for removal or pruning as part of redevelopment of the Affordable Senior Housing site should occur during the non-breeding season (August 1 to February 28) in the year prior to the start of grading if feasible. If tree pruning or removal cannot occur in the non-breeding season, then a preconstruction survey for active bird nests shall be conducted. Surveys to determine the presence of active raptor and bird nests on or adjacent to the construction area shall be conducted by a qualified biologist no more than 30 days prior to the initiation of construction-related activities, including removal of existing

vegetation or facilities. Results from the survey shall be submitted to the Environmental Principal Planner in the Department of Planning, Building and Code Enforcement. If native birds are observed nesting on or within 100 feet from the site, exclusion zones shall be established around all active nests. The size of the exclusion zone shall be determined based on consultation with the CDFG, which typically requires a zone of 50 to 300 feet around the nest, depending on the bird species. Active Cooper's hawk nests within urban areas would likely require a 100-foot exclusion zone. No activity shall be allowed inside the exclusion zone until a qualified biologist has determined that the young have successfully fledged from the nest or that the nest is no longer active.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** The trees on or immediately adjacent to the Affordable Senior Housing site provide potential nesting habitat for Cooper's hawk as well as other native birds whose nests are protected under the California Fish and Game Code. The proposed project could disturb nesting birds on the site if they are present. Removal of trees and construction activities adjacent to preserved trees could disturb nesting pairs causing nest abandonment, loss of young, or reduced nesting success. Restrictions on when work on trees may occur and the use of surveys to determine the presence of active raptor and bird nests will ensure that construction activities do not disturb native birds. Implementation of the mitigation measure identified above would reduce this impact to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

## I. VISUAL RESOURCES

1. **Impact VIS-1:** Future redevelopment of the Affordable Senior Housing site may detract from the existing visual character of historic resources located adjacent to the project site.

**Mitigation VIS-1:** Implement Mitigation Measures CULT-3a and 3b identified in the FEIR, which require project design modifications to reduce the project's impacts to the San Jose Japantown Historic District's integrity of setting and feeling. This would be achieved by designing new construction that is sympathetic to the district's existing architectural context and historical qualities.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding:** Cultural resources are considered scenic resources as they often provide visual interest and character. Several City Landmarks and Structures of Merit are located across North 6th Street, directly across from the project site. Each of these structures contributes to the integrity of the historic Japantown community, which has been deemed eligible for listing on the National Register. Development of the proposed project would substantially alter the existing visual character and context of the adjacent structures. Building height, design, and scale may not be visually compatible with the existing character and context of the Japantown neighborhood, which may detract from the integrity of adjacent historic structures. Design modification to reduce the project's impacts to the San Jose Japantown Historic District's integrity and feeling would result in a design that is sympathetic to the district's existing architectural context and historical qualities. Implementation of the above mitigation measures would ensure that significant visual impacts to surrounding historic structures are reduced to a less-than-significant level. **[Less than Significant Impact with Mitigation]**

## II. CUMULATIVE IMPACTS

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### A. Air Quality

#### Construction Impact

Generation of fugitive dust and pollutant emissions during construction may result in substantial short-term increases in air pollutants, and the cumulative construction of projects could contribute to short-term air quality impacts.

#### Mitigation

Each individual project would be subject to the rules and regulations, and other mitigation requirements during construction that are recommended by the Bay Area Air Quality Management District (BAAQMD) to reduce all construction related emissions to a less-than-significant level.

#### Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

### **Facts in Support of Finding**

Projects in the San Jose area that would be under construction simultaneously with the proposed project are listed in Table VI-1 of the FEIR. Depending on construction schedules and actual implementation of projects in the area, the generation of fugitive dust and pollutant emissions during construction may result in substantial short-term increases in air pollutants, and the cumulative construction of projects could contribute to short-term air quality impacts. However, each individual project would be subject to the BAAQMD's rules, regulations, and other mitigation requirements during construction. These requirements include, for example, the use of water during demolition and active construction work to control dust generation, covering all trucks hauling demolition debris, soil, sand, or other loose materials, and the suspension of excavation and grading activity when winds exceed 25 mph. These measures will reduce the generation of fugitive dust and pollutant emissions during construction. Implementation of these requirements will reduce all construction-related emissions to a **less than significant level**.

### **Regional Emissions Impact**

Because the project has a significant effect on regional air quality, the project would also have a significant cumulative effect on regional air quality.

### **Mitigation**

No feasible mitigation measures have been identified to reduce the cumulative air quality impacts related to regional emissions to a less than significant level.

### **Finding**

Specific economic, legal, social, technological, or other considerations make the mitigation of this impact infeasible. This impact therefore remains significant and unavoidable. The Statement of Overriding Considerations in Part V states the reasons to support the City's action notwithstanding the significant, unavoidable impacts of the action.

### **Facts in Support of Finding**

Results of the regional emissions air quality study indicate that CO concentrations would increase by less than 1 ppm with implementation of the proposed project. Implementation of the proposed project would not cause an exceedance of State or federal CO standards. Therefore, the proposed project would not lead to significant CO impacts, nor would the proposed project, in combination with other cumulative development, lead to CO concentrations that

exceed federal or State standards. However, regional emissions exceed the significance thresholds for ROG and PM10, therefore any project that has a significant effect on regional air quality would also have a significant cumulative effect on regional air quality. This cumulative air quality impact will be **significant and unavoidable**.

**B. Noise**

**Impact**

On-site land uses would be exposed to increased traffic and railroad noise under cumulative plus project conditions.

**Mitigation**

Implementation of Mitigation Measures NOI-3a and NOI-3b would reduce cumulative noise impacts to a less-than-significant level.

**Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding**

On-site land uses would be exposed to traffic noise levels of up to 67.7 dBA  $L_{dn}$  under cumulative plus project conditions. On-site land uses would also be exposed to a combination of railroad and traffic noise levels up to 62.0 dBA  $L_{dn}$  along 7th Street and Jackson Street under cumulative plus project conditions. Mitigation Measure NOI-3a requires that all noise sensitive development located within 310 feet of Taylor Street or within 50 feet of 7th Street include an alternate form of ventilation to ensure that windows can remain closed for a prolonged period of time. Mitigation Measure NOI-3b requires that all on-site outdoor activity areas shall be located so that they are completely sheltered by buildings from direct exposure to Taylor Street. Implementation of these Mitigation Measures would reduce these cumulative noise impacts to a **less than significant level**.

**C. Geology, Soils and Seismicity**

**Impact**

Implementation of the project in conjunction with other cumulative development would increase the number of people and employees that could be exposed to regional seismic risks.

### **Mitigation**

No additional mitigation measures besides those identified above regarding impacts related to Geology, Soils and Seismicity would be necessary.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

### **Facts in Support of Finding**

The proposed project would not contribute considerably to any cumulative impacts related to geology. If constructed, the proposed project could be at substantial risk for liquefaction, differential settlement, expansive soils, or settlement of project soils. Implementation of the project in conjunction with other cumulative development would increase the number of people and employees that could be exposed to regional seismic risks in the seismically active San Francisco Bay Area. However, this impact is not expected to be significant with incorporation of standard geotechnical mitigation measures, and no other impact related to geology, soils or seismicity would result. Implementation of these mitigation measures would reduce these cumulative impacts to a **less than significant level**.

## **D. Hydrology and Water Quality**

### **Impact**

Construction of the proposed project, in addition to other projects, could increase storm water runoff and decrease impervious surfaces.

### **Mitigation**

No additional mitigation measures, besides those identified above regarding impacts related to Hydrology and Water Quality would be necessary.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

### **Facts in Support of Finding**

Construction of the proposed project, in addition to other projects, could create an increase in volume of storm water runoff and contaminants carried in the runoff, adversely affecting the waters of the Guadalupe River and the San Francisco Bay. In addition, the proposed project would result in a decrease in impervious surfaces. Project-specific mitigation measures required for each of the cumulative projects would be incorporated into their design and operation so as to reduce potential impacts to a less-than-significant level. Implementation of these mitigation measures would reduce these cumulative impacts to a **less than significant level**.

## **E. Hazards and Hazardous Materials**

### **Impact**

Construction activities and operations at the project site or other projects in the vicinity could expose construction workers or the public to hazardous materials.

### **Mitigation**

No additional mitigation measures, besides those identified above regarding impacts related to Hazards and Hazardous Materials would be necessary.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

### **Facts in Support of Finding**

Development on the site and development on other sites within the area could expose construction workers and/or the public to hazardous materials releases during and following construction activities. In addition, development of the project site could expose remediation/construction workers and/or the public to hazardous materials from contaminants in soil and groundwater, during and following site redevelopment activities. Construction activities as well as any other operations at the project site or other projects in the vicinity that use, store, or dispose of hazardous materials would be required to comply with federal, State, and local requirements for managing hazardous materials. No significant

unavoidable impacts related to hazards would result from construction or operation of the proposed project and the project would not contribute to any cumulative hazards impacts. Implementation of the mitigation measures related to Hazards and Hazardous Materials would further reduce any cumulative impacts to a **less than significant level**.

**F. Cultural and Paleontological Resources**

**Impact**

Construction of the proposed project, in addition to other projects, could result in cumulative impacts to the San Jose Japantown Historic District.

**Mitigation**

No additional mitigation measures, besides those identified above regarding impacts related to Cultural and Paleontological Resources would be necessary.

**Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

**Facts in Support of Finding**

The proposed project would stand in contrast to the historical buildings located along North 6th Street, which are all either one- or two-story structures. In addition, site clearance and construction activities could result in significant impacts to previously undiscovered human remains, archaeological resources, and historical resources specific to the San Jose Japantown Historic District. However, the proposed project would not have significant unavoidable impacts to cultural or paleontological resources. Implementation of mitigation measures set forth above related to Cultural and Paleontological Resources would reduce significant impacts upon these resources to a less-than-significant level. None of the projects included in Table VI-1 of the FEIR are within or would otherwise impact the San Jose Japantown Historic District. Therefore, the proposed project would constitute the whole of impacts to cultural and paleontological resources in the area around the project site. Implementation of the mitigation measures discussed above would reduce any cumulative impacts to a **less than significant level**.

**F. Biological Resources**

**Impact**

Construction of the proposed project, in addition to other projects, could result in cumulative impacts to biological resources.

### **Mitigation**

No additional mitigation measures, besides those identified above regarding impacts related to Biological Resources would be necessary.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

### **Facts in Support of Finding**

Construction of the proposed project could result in the removal of several trees and shrubs on the existing Affordable Senior Housing site. The proposed project and the cumulative projects set forth in the FEIR are required to develop landscape plans in conformance with the City of San Jose Landscape and Irrigation Guidelines and the City of San Jose Planning Department specifications. In addition, the trees on or immediately adjacent to the Affordable Senior Housing site provide potential nesting habitat for Cooper's hawk as well as other native birds whose nests are protected under the California Fish and Game Code. The proposed project could disturb nesting birds on the site if they are present. Implementation of Mitigation Measures BIO-1 and BIO-2 and conformance by other cumulative projects with the City's Landscape and Irrigation Guidelines and the City's Planning Department specifications would reduce potential disturbance of nesting habitats during construction to a **less-than-significant level**.

## **G. Visual Resources**

### **Impact**

Construction of the proposed project, in addition to other projects, could result in cumulative impacts related to visual resources.

### **Mitigation**

No additional mitigation measures, besides those identified above regarding impacts related to Visual Resources would be necessary.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

### **Facts in Support of Finding**

Given the increasing amount of development, and the location of the project near Downtown San Jose, implementation of mitigation measures related to Cultural and Paleontological Resources, Biological Resources, and Visual Resources would reduce the project's contribution to cumulative impacts to visual resources to a less-than-significant level. The project site and its vicinity offer predominantly urban views of other urban scenes (i.e., buildings, landscaping, and roadways) and its implementation along with the projects listed in Table VI-1 of the FEIR would not significantly contribute to an adverse cumulative effect on scenic vistas or views. Implementation of the mitigation measures discussed above would reduce any cumulative impacts to a **less than significant level**.

## **H. Utilities**

### **Impact**

The proposed project and those projects listed in Table VI-1 of the FEIR would increase the demand for water service, wastewater service, and other utilities.

### **Mitigation**

No additional mitigation measures, besides those identified above regarding impacts related to Utilities would be necessary.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.

### **Facts in Support of Finding**

The proposed project in addition to other cumulative projects could exceed the capacity of some sewer lines in the vicinity of the project site. However, implementation of the proposed mitigation measure identified above related to Utilities would reduce the cumulative impact on utilities to a less-than-significant level. In addition, utility service providers maintain long term projections for demand for their services within the City based on the City's General Plan and have development strategies to meet anticipated future demand level.

Implementation of mitigation measures set forth above related to Utilities would reduce any cumulative impacts to a **less than significant level**.

### **III. ALTERNATIVES TO THE PROPOSED PROJECT**

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#### **A. NO DEVELOPMENT ALTERNATIVE**

##### **1. Description**

The No Development alternative envisions the site remaining physically as it is – a surface parking lot. The affordable housing development would not be constructed. Under this alternative, the Redevelopment Agency could conduct remediation activities, if any contamination is present, but this is not currently proposed because the cost of remediation would more likely be covered as part of the development costs of a new project. The No Development Alternative is the environmentally superior alternative.

##### **2. Comparison to Proposed Project**

For the purposes of CEQA, environmental impacts are determined by assessing the change in the physical environment from the baseline condition for the project site. Since the No Development alternative maintains the baseline condition of the property, there are, by definition, no environmental impacts. Any site soil contamination, if present, would remain, however, unless and until addressed as a separate project.

##### **3. Finding**

Although by definition there would be no environmental impacts from the No Development alternative, the No Development alternative would not meet or achieve any of the project's objectives. It would not promote redevelopment of the under-utilized City surface parking lot. Neither would it contribute to the revitalization of the City's Japantown Redevelopment Plan area. No affordable senior housing development would occur. The No Development alternative would not implement the goals, policies and objectives of the General Plan, the Japantown Redevelopment Plan, the Jackson-Taylor Neighborhood Revitalization Plan, or the City of San Jose Housing Initiative.

The No Development alternative would be environmentally superior in the technical sense that environmental impacts would not occur. However, as

discussed above, this alternative would fail to achieve any of the project's objectives and is therefore rejected as infeasible.

## **B. EXISTING GENERAL PLAN ALTERNATIVE**

### **1. Description**

The Existing General Plan alternative would develop the site in accordance with existing General Plan land use designation. For the surface parking lot site, the maximum residential density would be 25 units/acre. The surface parking lot site would be developed with 14 market rate housing units.

### **2. Comparison to Proposed Project**

Compared to the proposed project, this alternative would result in similar impacts. Because the density and height under this alternative would be less than the density and height for the proposed project, development on the site would result in a reduced magnitude of impacts related to population, employment and housing; transportation, circulation and parking; air quality; noise; visual resources; shade/shadow and light/glare; utilities; and public services and facilities. Because the No Development Alternative is the environmentally superior alternative, the Existing General Plan Alternative is the second most environmentally superior alternative.

### **3. Finding**

The Existing General Plan alternative would achieve some of the project's objectives. It would promote redevelopment of the under-utilized City surface parking lot parcel and contribute to the revitalization of the City's Japantown Redevelopment Plan area by constructing affordable senior housing units. This alternative would be consistent with and fulfill the goals, policies and objectives of the General Plan, the Japantown Redevelopment Plan, the Jackson-Taylor Neighborhood Revitalization Plan, and the City of San Jose Housing Initiative. In comparison to the proposed project, this alternative would not provide affordable senior housing opportunities, which is a key project objective, and therefore this alternative is rejected as infeasible.

## **C. REDUCED DENSITY ALTERNATIVE**

### **1. Description**

The Reduced Density alternative would develop the Corporation Yard site at a reduced density but would not alter the proposed development program for the Affordable Senior Housing site, and is therefore not relevant to the decision-making process for the Affordable Senior Housing site and is not considered further.

## **D. DIRIDON AREA ALTERNATIVE**

### **1. Description**

The Diridon Area off-site alternative is a 5.49 acre site located along the western edge of the greater downtown area of San Jose, in the Burbank/Del Monte Strong Neighborhoods Initiative Area. It is situated between West San Fernando Street and Park Avenue, west of the Southern Pacific Railroad tracks and east of Los Gatos Creek, as shown on Figure VII-1 of the Final EIR, Project and Alternative Locations. The existing uses within the project site are commercial, with the exception of one single-family residence. The total square footage of existing buildings is approximately 120,085 square feet. The proposed development for this off-site alternative is the same as the proposed project (consisting of both the Corporation Yard and Affordable Senior Housing sites) analyzed in the EIR: 16,000 to 30,000 square feet of ground floor commercial, 600 market-rate residential units, up to 24 live-work units, 85 affordable senior housing units, 1 acre of parkland and 20,000 square feet of community amenity space. (The range of commercial square footage and the live-work units are included to accommodate a variation on the proposed project - up to 14,000 square feet of retail space could be replaced with up to 24 live/work units.)

### **2. Comparison to Proposed Project**

In comparison to the proposed project, the Diridon Area off-site alternative could result in significant impacts to three intersections: Autumn Street/Santa Clara Street, Delmas Avenue/Park Avenue, and Delmas Avenue/San Fernando Street. Implementation of this alternative may also result in significant impacts to SR 87. In addition, the significant cumulative traffic impact would remain. This alternative would also result in potential impacts related to hazards and hazardous materials – the demolition of any structures containing lead-based paint, asbestos-containing building materials, or other hazardous materials could release airborne particles of hazardous materials, which may affect construction workers and the public. Mitigation in the form of abatement would reduce this impact to a less-than-significant level. In addition, this alternative would also result in potential impacts related to utilities – the solid waste generated during the demolition, land clearing and construction could interfere with waste diversion goals mandated by the California Integrated Waste Management Act. Mitigation in the form of a waste management plan for the recycling of construction and demolition materials would reduce this impact to a less-than-significant level. Other impacts would generally remain the same, including impacts to air quality, which would exceed the BAAQMD thresholds of significance and therefore have a significant unavoidable effect on regional air quality.

### **3. Finding**

The Diridon Area alternative would achieve few of the project's objectives. This alternative would provide market-rate new housing opportunities and would provide affordable housing opportunities for senior citizens. However, it would not promote redevelopment of the under-utilized former Corporation Yard parcel nor contribute to the revitalization of the City's Japantown Redevelopment Plan area. While the mix of housing, retail, and community amenity would contribute to and complement the Greater Downtown Strategy Area, it would not do so for Japantown. This alternative would not advance the goals of the Japantown Redevelopment Plan or the Jackson-Taylor Neighborhood Revitalization Plan, and is therefore rejected as infeasible.

## **E. NORTH 10TH STREET ALTERNATIVE**

### **1. Description**

The North 10th Street off-site alternative is a 5.38 acre site located two blocks north and two blocks east of the project site in the Jackson-Taylor Planned Residential Community. The site is bounded by Hedding Street to the north, North 10th Street to the east, East Mission Street to the south, and the Union Pacific Railroad tracks on the west, as shown in Figure VII-1. The existing uses on this alternative site include industrial and warehousing uses. The proposed development for this off-site alternative is the same as the proposed project: 16,000 to 30,000 square feet of ground floor commercial, 600 market-rate residential units, up to 24 live-work units, 85 affordable senior housing units, 1 acre of parkland and 20,000 square feet of community amenity space. (The range of commercial square footage and the live-work units are included to accommodate a variation on the proposed project - up to 14,000 square feet of retail space could be replaced with up to 24 live/work units.)

### **2. Comparison to Proposed Project**

In comparison to the proposed project, the North 10th Street off-site alternative would result in significant impacts at the same three protected intersections locations. Also, due to this site's location, more traffic would be added to the US 101/Oakland ramps than would be added by the proposed project. In addition, it is likely that development on this site would generate more vehicle trips than the proposed project, as it is further from light rail and other transit opportunities as well as retail and services in the Japantown Neighborhood Business District. Further, the significant cumulative traffic impact would remain. This alternative would also result in potential impacts related to hazards and hazardous materials – the demolition of any structures containing lead-based paint, asbestos-containing building materials, or other hazardous materials could release airborne particles of hazardous materials, which may affect construction workers and the public. Mitigation in the form of abatement would reduce this impact to a less-than-significant level. In addition, this alternative would also result in

potential impacts related to utilities – the solid waste generated during the demolition, land clearing and construction could interfere with waste diversion goals mandated by the California Integrated Waste Management Act. Mitigation in the form of a waste management plan for the recycling of construction and demolition materials would reduce this impact to a less-than-significant level. Other impacts would generally remain the same, including impacts to air quality, which would exceed the BAAQMD thresholds of significance and therefore have a significant unavoidable effect on regional air quality.

### **3. Finding**

The North 10th Street Alternative would achieve few of the project's objectives. This alternative would provide market-rate new housing opportunities and would provide affordable housing opportunities for senior citizens. It would advance the goals of the Jackson-Taylor Neighborhood Revitalization Plan. However, it would not promote redevelopment of the under utilized former Corporation Yard parcel nor contribute to the revitalization of the City's Japantown Redevelopment Plan area. While the mix of housing, retail, and community amenity would contribute to and complement the Greater Downtown Strategy Area, it would not do so for Japantown. This alternative would not advance the goals of the Japantown Redevelopment Plan, and is therefore rejected as infeasible.

## **V. STATEMENT OF OVERRIDING CONSIDERATIONS**

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The City Council of the City of San José adopts and makes the following Statement of Overriding Considerations regarding the significant, unavoidable impacts of the Project and the anticipated benefits of the Project.

### **A. SIGNIFICANT UNAVOIDABLE IMPACTS**

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated impacts to transportation (project impacts to local signalized 'Protected' intersections), and air quality (project and cumulative), as disclosed in the FEIR prepared for this Project. The impacts would not be reduced to a less than significant level by feasible changes or alterations to the Project.

### **B. OVERRIDING CONSIDERATIONS**

After review of the entire administrative record, including - but not limited to - the FEIR, the staff report, applicant submittals, and the oral and written testimony and evidence presented at public hearings, the City Council finds that specific economic, legal, social, technological and other anticipated benefits of the Project outweigh the unavoidable adverse environmental impacts, and therefore

justify the approval of this Project. The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible (including the incorporation of feasible mitigation measures), and finds that the remaining significant, unmitigated or unavoidable impacts of the Project described above are acceptable because the benefits of the Project outweigh them. The City Council finds that each of the overriding considerations expressed as benefits and set forth below constitutes a separate and independent ground for such a finding. The Project will result in the following substantial benefits, which constitute the specific economic, legal, social, technological and other considerations that justify the approval of the Project:

**C. BENEFITS OF THE PROJECT**

1. The Project will redevelop an underutilized site owned by the City of San Jose to advance the goals of the Japantown Redevelopment Plan by eliminating blight, strengthening the economic base, furthering development of underutilized properties, and attracting additional private investment and employment in the Japantown Redevelopment Area and adjoining areas.
2. The Project will create a vibrant affordable senior housing development that will contribute to and complement the livability of the City's Downtown Frame Area and the Japantown area.
3. The Project will advance the goals of the Jackson-Taylor Residential Strategy to create a mixed-use residential and commercial core that is urban in character and at a scale and density that is economically feasible.
4. The Project will further achieve the recommendation of the Jackson-Taylor Neighborhood Revitalization Plan to convert underutilized properties located in the heart of the Jackson-Taylor neighborhood to residential and neighborhood supporting commercial uses.
5. The Project will advance the goals of the City of San Jose Housing Initiative, which include encouraging the development of affordable senior housing units near transit facilities.

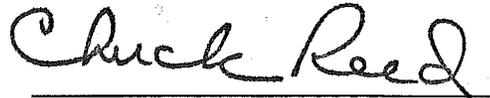
**ADOPTED** this 23rd day of February, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,  
KALRA, LICCARDO, NGUYEN, PYLE, REED.

NOES: OLIVERIO.

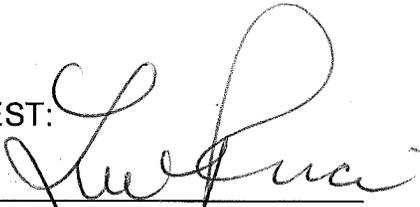
ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED  
Mayor

ATTEST:



LEE PRICE, MMC  
City Clerk